



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,627	12/06/2000	Mohan Vishnupad	370-19	9463

7590 10/29/2003

CARTER, DELUCA, FARRELL & SCHMIDT LLP
445 Broad Hollow Road
Suite 225
Melville, NY 11747

[REDACTED] EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
1751	[REDACTED]

DATE MAILED: 10/29/2003

17 KB

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary	Application No.	Applicant(s)	
	09/730,627	VISHNUPAD, MOHAN	
	Examiner	Art Unit	
	Brian P Mruk	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 August 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,5,7-9 and 11-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,5,7-9 and 11-40 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is a response to applicant's remarks filed on August 21, 2003. Currently, claims 1, 2, 5, 7-9 and 11-40 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper Nos. 5, 9 and 15.
3. The objection of claims 22, 25, 29, 31 and 40 is maintained for the reasons of record found in the last Office Action, Paper No. 15, Paragraph No. 6.
4. The objection of claims 13 and 30 for being duplicate claims is maintained for the reasons of record found in the last Office Action, Paper No. 15, Paragraph No. 7.
5. The objection of claims 14 and 31 for being duplicate claims is maintained for the reasons of record found in the last Office Action, Paper No. 15, Paragraph No. 8.
6. The objection of claims 15 and 32 for being duplicate claims is maintained for the reasons of record found in the last Office Action, Paper No. 15, Paragraph No. 9.

Art Unit: 1751

7. The rejection of claims 1, 2, 5, 7-9, 11-16, 21, 23, 24, 27-34 and 39 under 35 U.S.C. 102(e) as being anticipated by Cen et al, U.S. Patent No. 6,428,799, is maintained for the reasons of record found in Paper No. 9, Paragraph No. 9.

8. The rejection of claims 17-20, 22, 25, 26, 35-38 and 40 under 35 U.S.C. 103(a) as unpatentable over Cen et al, U.S. Patent No. 6,428,799, is maintained for the reasons of record found in Paper No. 9, Paragraph No. 11.

Response to Arguments

9. Applicant's arguments filed August 21, 2003 have been fully considered but they are not persuasive.

Applicant argues that the phrase "substantially anhydrous" is defined as a composition that, other than the water of hydration contained in the various components used to formulate the product, has no free water added to the composition (see page 3, lines 3-5 of the instant application). However, the examiner maintains that the amount of the water, and not where the water originates from, defines the phrase "substantially anhydrous", since the instant claims are drawn to a composition. Even if the phrase "substantially anhydrous" is defined as a composition that, other than the water of hydration contained in the various components used to formulate the product, **has no free water added to the composition**, the examiner asserts that this definition of the phrase "substantially anhydrous" would have been examined as a product by process limitation, and thus, the same rejections of record would have been made by the

Art Unit: 1751

examiner, as per the requirements of **MPEP Section 2113**. Therefore, the examiner maintains that the phrase “substantially anhydrous” is defined as a composition which contains less than 5% by weight of water, as defined by applicant on page 3, lines 4-5 of the instant specification. Thus, since Cen clearly discloses compositions that contain less than 5% by weight of water, the examiner maintains the rejections of record.

The examiner notes that applicant has not provided any arguments with respect to the claim objections made by the examiner in the last Office Action, Paper No.15, Paragraph Nos. 6-9. Therefore, a response to these claim objections by the examiner is not necessary.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1751

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

BPM

Brian Mruk

October 28, 2003

Brian P. Mruk

Brian P. Mruk
Patent Examiner
Tech Center 1700